



Customized PTO/SB/21 (04-04)

TRANSMITTAL FORM (for all correspondence after initial filing)	Application #	09/367,496
	Confirmation #	4418
	Filing Date	November 24, 1999
	First Inventor	AGUERA
	Art Unit	1642
	Examiner	Rawlings, Stephen L.
Total number of pages in this submission =	Docket #	P06473US0/BAS

ENCLOSURES (check all that apply)	
<input type="checkbox"/> Fees calculated below <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> including Attachment(s) <input type="checkbox"/> After Final Amendment/Reply <input type="checkbox"/> including Attachment(s) <input type="checkbox"/> Extension of Time Petition <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> Response to Missing Parts/Incomplete Appl. <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Terminal Disclaimer <input checked="" type="checkbox"/> Response to Notice of Non-Responsive Amendment <input checked="" type="checkbox"/> Copy of Notice

FEES CALCULATION: For claims if required and/or other fees as shown below:					
	<i>NOW</i>	<i>Previously Paid For</i>	<i>Present Extra</i>	<i>Rate</i>	<i>\$</i>
<input checked="" type="checkbox"/> TOTAL CLAIMS	22	22	0	X \$ 18 =	0
<input checked="" type="checkbox"/> INDEP. CLAIMS	11	11	0	X \$ 86 =	0
TOTAL OF ABOVE CLAIMS FEES =					0
Reduction by 1/2 for small entity status of applicant					
SUBTOTAL =					0
Fee for extension of time (per attached Petition)					
Other fee for					
TOTAL OF ALL FEES =					0

☐ A CREDIT CARD PAYMENT FORM (PTO-2038) in the amount of \$ * is enclosed. If no payment or an insufficient payment is enclosed and a fee is due in connection herewith, the Commissioner is authorized to charge any fee or additional fee due in connection herewith to Deposit Account No. 12-0555.

☒ In the event that a petition for extension of time is required to be submitted herewith and that a separate petition is not submitted herewith, applicant hereby petitions under 37 CFR 1.136(a) for an extension of time of as many months as are required to render this submission timely. Any fee is authorized above.

Date: July 19, 2004


By: B. Aaron Schulman
Registration No.: 31,877

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RESPONSE TO IMPROPER NOTICE OF NON- RESPONSIVE AMENDMENT	Application #	09/367,496
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	Docket #	P06473US0/BAS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

S I R:

In response to the improperly issued Notice of Non-Responsive Amendment dated June 17, 2004, Applicants respond as follows.

The Notice issued by the Examiner states that Applicants' prior response dated October 9, 2003 was "non-responsive" on the grounds that the Applicants failed to place the application in compliance with sequence rules and did not address the "discrepancy between the amino acid sequence depicted in Figure 12 and the amino acid sequence set forth as SEQ ID NO:8". Such a statement is completely untrue, and Applicants' prior response (copy attached hereto in relevant part) did address this discrepancy and did place this application in compliance with Sequence rules.

As was expressed to the Examiner in a telephone discussion on Friday, July 16, 2004, Applicants' prior response (at pages 2-3) specifically discussed the changes that were made to the application in order to be technically accurate so as to have the amino acid sequences in the Sequence Listing match exactly those shown in Fig. 12 with the stop codon at position 56 instead of an amino acid (e.g., lysine). Because there is a stop codon shown in Fig. 12, this separates the amino acid sequences as shown into two sequences, and according to sequence listing rules, such a sequence needs to be included in the sequence listing as two separate sequences which is exactly what was

done. In addition, in the prior response, Applicants' amended the specification with regard to the drawing description of Fig. 12 so as to accurately describe this Figure as well.

Accordingly, by adding SEQ ID NOS 9 and 10 to the sequence listing, Applicants accurately corrected the sequence listing with regard to the sequence shown in Fig. 12 because while the nucleotide sequence is complete, the actual sequence shown in Fig. 12 has a stop codon at position 56 (which is explained in Applicants' prior response and throughout the application as well), and thus the correct way of representing this sequence in the Sequence Listing is to show it as two sequences which is exactly what Applicants did.

Applicants' prior response thus correctly placed the application in compliance with Sequence Listings regulations, and specifically addressed the alleged discrepancy with regard to Fig. 12 and SEQ ID NO :8 in the response (see, e.g., from the bottom of page 2 to the top of page 3).

As also indicated in the telephone discussion between the Examiner and counsel for Applicants, in light of the fact that Applicants have pointed out that SEQ ID NO :8 was clearly disclosed in the original specification, Applicants are willing to amend Fig. 12 at this point to correctly show SEQ ID NO :8 as shown in the sequence listing.

In any event, the Notice issued June 17, 2004 is thus entirely improper, and in light of the fact that it has now been over nine months since Applicants filed their proper response to the prior Office Action on October 9, 2003, examination and immediate allowance of this case is urgently requested.

Respectfully submitted,

STITES & HARBISON PLLC

July 19, 2004

A handwritten signature in black ink, appearing to read "B. Aaron Schulman", written over a horizontal line.

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Registration No. 31877

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/367,496

11/24/1999

MICHELE AGUERA

P06473USO/TP

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06/17/2004

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EXAMINER

RAWLINGS, STEPHEN L

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 06/17/2004

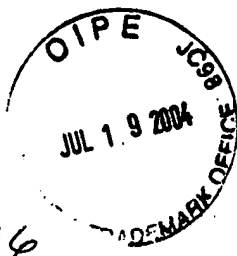
7-17-04

Please find below and/or attached an Office communication concerning this application or proceeding.

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JUN 18 2004

STITES & HARBISON PLLC



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09/367,496

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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1642

20040613

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Notice of Non-Responsive Amendment

The reply filed on October 9, 2003 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

Applicants failed to address place the application in compliance with the sequence rules set forth under 37 CFR §§ 1.821-1.825. As required by the previous Office action mailed April 9, 2003, the discrepancy between the amino acid sequence depicted in Figure 12 and the amino acid sequence set forth as SEQ ID NO: 8 of the sequence listing must be resolved, since the sequences set forth in Applicant's disclosure and the sequence listing must be the same; see page 3, item 6 of the previous Office action. Because Applicant failed to address this discrepancy and make appropriate corrections, the reply to the previous Office action filed October 9, 2003 is deemed not fully responsive. As clearly noted in the previous Office action, Applicant must correct the deficiency before the application can be further examined. See 37 CFR 1.111.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Rawlings, Ph.D. whose telephone number is (571) 272-0836. The examiner can normally be reached on Monday-Friday, 8:30AM-5:00PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (571) 272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1642

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen L. Rawlings, Ph.D.
Examiner
Art Unit 1642

slr
June 13, 2004


CHRISTINA CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600